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SUBJECT: EXPORT CONTROL REGIME DENIAL INFORMATION: SHARING WITH HONG KONG

REF: A. 99 STATE 20313
[¶](#)B. 06 HONG KONG 4332
[¶](#)C. HONG KONG 0966

Classified By: CONSUL GENERAL JOE DONOVAN, FOR REASONS 1.4 (B) AND (D).

[¶](#)1. (S) Summary: Since 1999, the USG has undertaken to share with the Hong Kong government (HKG) consolidated information regarding U.S. denials of trade of sensitive proliferation-linked technologies. This has contributed to a useful two-way exchange of information with an effective licensing agency and customs service, and has resulted in specific cases of interdiction or denial of trade in controlled items (paras 8-12). In addition, Hong Kong has taken the initiative to ask for advice from the Commerce Department's export control officer (ECO) at Post for questionable license requests, even when not on our lists. No agency at Post possesses evidence that the Hong Kong government has passed regime denial information to mainland China. This cable reviews the current functioning of the USG's mechanism to share regime denial information with Hong Kong. End summary.

BACKGROUND

[¶](#)2. (C) Each of the four major non-proliferation regimes (Australia Group, Missile Technology Control Regime, Nuclear Suppliers Group, and Wassenaar Arrangement) has a "no undercut" policy, according to which members notify one another of proposed exports denied pursuant to the objectives of the regime. Thus, members will not allow an export essentially identical to the one notified, without first consulting with the original denying member. Prior to Hong Kong's return to China in 1997, the Hong Kong government (HKG) routinely received regime denial information through the British government, which had control over Hong Kong and was a party to the non-proliferation agreements. When Hong Kong became a Special Administrative Region of the PRC in 1997, it lost the direct and automatic information access it received through Britain. In order to maintain effective trade controls, the HKG began to ask individual member governments for their lists. The USG had to decide whether and how to begin to share information directly with Hong Kong; the policy decision to do so was rendered in Ref A in 1999, which determined that it was in USG interests to encourage Hong Kong to continue to guard against trade through or from Hong Kong of previously denied technologies. According to Ref A, information from all four regimes was to be consolidated and scrubbed in a way that Hong Kong would not be able to link end users and items sought. The British government similarly has continued to provide its own regime denial information to the HKG, to the present day. A survey of all relevant USG agencies at Post, as well as consultations with colleagues at the British Consulate General here, did not uncover any evidence of Hong Kong's passing regime denial information to mainland China.

HOW THE INFORMATION SHARING WORKS

¶3. (SBU) The State Department, through the Economic and Political Section in Consulate General Hong Kong, annually provides the Hong Kong Trade and Industry Department (HKTID) a subset of the denial information that the USG submits to the various multilateral export control regimes. HKTID is the HKG's strategic goods licensing division. In practice, Post conveys the information to HKTID at the Assistant Director General level during an in-person meeting.

¶4. (C) In furtherance of its stated "no undercut" policy, HKTID confirms it will not issue licenses for import/export of strategic commodities where such action would undercut the licensing policies of its trading partners. When HKTID receives information about specific companies of concern from the USG, HKTID places those names in its licensing database. If it receives a license application implicating one of those companies, it will confer with the USG on the details and give more substantial scrutiny to that transaction. The decision to issue or decline to issue a license is made in that context, on a case-by-case basis.

¶5. (C) The Commerce Department's Bureau of Industry and Security (BIS), through its export control officer (ECO) here, also separately provides licensing data to HKTID, including BIS worldwide license denials and Hong Kong and mainland China license approvals. This information sharing typically occurs on a quarterly basis. In addition, BIS and other agencies may share export control-related information with HKTID on an ad hoc basis in support of investigations or

to request the assistance of HKTID and Hong Kong Customs with certain interdiction and other matters.

GENERAL BENEFITS OF INFORMATION SHARING TO THE USG

¶6. (C) The USG receives a range of benefits as a result of providing export control related information to HKTID, including regime denial information. In addition to the specific case examples cited below, HKTID provides to BIS on a semi-annual basis a list of all license approvals for U.S.-origin strategic commodities that are licensed for import to Hong Kong and for export from Hong Kong. This information is used in BIS's own review and analysis of trade with Hong Kong.

¶7. (S) Additionally, from time to time, HKTID and Hong Kong Customs provide, at USG request, information concerning the trade declarations of Hong Kong companies. That information includes the dates and consignees of shipments. This type of assistance may even occur in circumstances where no specific violations of Hong Kong law have been alleged. For example, HKTID in recent years provided trade declaration data concerning companies that had allegedly shipped low-level electronic components believed to be used in the production of IEDs in Iraq.

EXAMPLES OF USG BENEFITS FROM INFORMATION SHARING

¶8. (SBU) The list of examples below is not designed to be exhaustive but rather gives a sense of the types of benefits that accrue to the USG when it shares information with the HKG (whether regime denial information or other information concerning shipments and entities of concern).

¶9. (C) In July 2007, HKTID requested BIS input concerning a license application it had received for the export of encryption hardware and software to mainland China. That proposed shipment was apparently destined for China Petroleum

Chemical Corporation. HKTID noted that it was requesting guidance because this company was listed in 2003 regime denial information provided to HKTID by the USG. HKTID eventually declined to issue this license.

¶10. (C) In May 2007, HKTID requested BIS's views of a pending license for the export to mainland China of encryption hardware and software to a company related to Guangzhou GRG Metrology and Test Technology Ltd. GRG Metrology had been the subject of a BIS license denial in ¶2006. HKTID had been informed of the denial through BIS's information sharing arrangement with HKTID.

¶11. (C) In August 2006, September 2007 and November 2007, HKTID provided BIS with information concerning the prosecution of three Hong Kong companies for failure to obtain required Hong Kong export licenses. In the 2006 case, the prosecution of Hong Kong Mitron resulted from information provided by BIS and concerned the export to mainland China of multilaterally controlled microwave amplifiers. In the September 2007 case, Litamos Electronic Limited, was prosecuted for the unlicensed export of a harmonic mixer to Iran. In the November 2007 case, Centre Bright Electronics was prosecuted for the export of electronic components to mainland China based on information provided to HKTID by BIS.

¶12. (C) In August 2008, HKTID informed BIS's ECO at Post that it had declined to issue a license for export of electronic components to mainland China (that had originated in Malaysia) as a result of information provided to HKTID by BIS. That information had resulted from various end-use checks conducted by the ECO in Hong Kong. In addition, Hong Kong Customs is presently investigating multiple Hong Kong companies on the basis of information provided by the ECO uncovered during BIS end-use checks. The majority of these cases involve the export of multilaterally controlled electronic components through Hong Kong to mainland China (Ref C).

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End Cable Text